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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,037	06/25/2003	Geoffrey John Elliott	196428.01	3952

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EXAMINER	
AUGUSTINE, NICHOLAS	
ART UNIT	**PAPER NUMBER**
2179	

NOTIFICATION DATE	DELIVERY MODE
08/17/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/606,037	ELLIOTT ET AL.	
	Examiner	Art Unit	
	NICHOLAS AUGUSTINE	2179	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 April 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-29,31-41,45-51,55 and 56* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-29, 31-41, 45-51, 55 and 56* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *04/15/2009;07/07/2009*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

A. This action is in response to the following communications: Request for Continued Examination filed 04/15/2009.

B. Claims 1-29, 31-41, 45-51, 55 and 56 remains pending.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/15/2009 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-29, 31-41, 45-51 and 55-56 are rejected under 35 U.S.C. 102(b) as being anticipated by Dwek, Norman Scott (US Pat. 6,248,946), herein referred to as "Dwek".

As for independent claim 1, Dwek teaches a user interface comprising: a graphical interface that enables a user to select media-playing services (col.4,lines 16-25), wherein the graphical interface is integrated into an operating system shell's user interface and includes multiple controls for selection of the media-playing services (figure 5; wherein depicted is an application bar able to perform task which makes use of the operating systems shell; col.16, lines 50-54), the multiple controls simultaneously displayed in the operating system shell's taskbar and including at least a play control, a pause control or a stop control (figure 5; wherein depicted are multiple media controls; col.16, lines 50-54).

As for dependent claim 2, Dwek teaches the user interface of claim 1, wherein the graphical interface further enables the user to select media-playing services with a single click of a mouse (col.5, lines 55-62).

As for dependent claim 3, Dwek teaches the user interface of claim 1, wherein the graphical interface further enables the user to select media-playing services with a single click of a mouse when another application running in another process is in

perspective (col.14, lines 36-50).

As for dependent claim 4, Dwek teaches the user interface of claim 3, wherein the perspective includes the other application being in focus (col.14, lines 36-50; wherein the player is in the system tray out of perspective).

As for dependent claim 5, Dwek teaches the user interface of claim 1, wherein the graphical interface further enables the user to select media-playing services without altering a perspective of another application running in another process (col.14, lines 36-50; application bar (taskbar) is presented with other applications also presented)

As for dependent claim 6, Dwek teaches the user interface of claim 1, wherein the controls include buttons for selection of the media-playing services (figure 5).

As for dependent claim 7, Dwek teaches the user interface of claim 1, wherein the controls enable selection of the media-playing services including services that stop and pause a first media file being played and start a second media file (note claim 6).

As for dependent claim 8, Dwek teaches the user interface of claim 1, wherein the controls include button for selection of the media-playing services including a service that alters a size for a presenting of a visual aspect of a media file (step 444).

As for dependent claim 9, Dwek teaches the user interface of claim 1, wherein the controls include a control button for selection of the media-playing services including a service that alters a volume for a playback of an audio aspect of a media file (figure 5; item 530; volume control bar).

As for dependent claim 12, Dwek teaches the user interface of claim 1, further comprising: a visual space for presenting metadata associated with a media file (item 520; song title, an artist name, etc…).

As for dependent claim 13, Dwek teaches the user interface of claim 1, further comprising: a visual space for presenting metadata associated with a media file, wherein the graphical interface enables the user to select media-playing services to present metadata associated with the media file (figure 5; item 520).

As for independent claim 14, Dwek teaches a system comprising: a media-playing application in computer memory executing in a shell process of an operating system (col.4,lines 16-25), wherein the media-playing application is capable of enabling a user to control media through a user interface having multiple controls and integrated into a taskbar associated with the shell process the controls comprising at least one of a play control, a pause control, a stop control, a previous control, a next track control, a volume control, a mute control, a metadata control, a visual space control, a switch control, and a library control (figure 5). Dwek further teaches that multiple controls are

displayed simultaneously on the taskbar (figure 5; col.16, lines 50-54; note the analysis of claim 1 above).

As for dependent claim 15, Dwek teaches the system of claim 14, wherein preferences for displaying the user interface in the taskbar are retained by the media-playing application for future use (col.14, lines 36-50).

As for dependent claim 16, Dwek teaches the system of claim 14, wherein the media-playing application is capable of receiving preferences for how the user interface is displayed and used that are received from the user through another application executing in the shell process (col.14, lines 36-56).

As for dependent claim 17, Dwek teaches the system of claim 14, further comprising a player deskband, wherein the player deskband is capable of receiving preferences relating to the user interface and sending the preferences to the media-playing application (col.10, lines 60-67).

As for dependent claim 18, Dwek teaches the system of claim 14, wherein the media-playing application comprises a deskband and a controller, the deskband configured to communicate with the shell process and the operating system, the controller configured to enable the user to control media through the user interface (col.16, lines 50-67).

As for dependent claim 20, Dwek teaches the system of claim 14, wherein the media-playing application is capable of creating the user interface to have a minimum visual size on the taskbar (col.12, lines 40-43).

As for dependent claim 21, Dwek teaches the system of claim 14, wherein the media-playing application is capable of creating the user interface following a skin file containing text, art, and script parameters (col.11, lines 66-67; col.12, lines 1-4)

As for dependent claim 23, Dwek teaches the system of claim 14, wherein the media-playing application is capable of presenting audio media (col.4, line 12).

As for dependent claim 24, Dwek teaches the system of claim 14, wherein the media-playing application is capable of presenting metadata associated with a media file being presented by the media-playing application (note the analysis of claim 23).

As for independent claim 35, Dwek teaches *a method comprising: presenting a graphical user interface having multiple controls and integrated into a taskbar user interface; and enabling, without the graphical user interface being in perspective, a user to select media-playing services through the multiple controls of the graphical user interface (figure 5). Dwek further teaches that multiple controls are displayed simultaneously on the taskbar* (note the analysis of claim 1 above).

As for dependent claim 36, Dwek the method of claim 35, wherein the enabling is performed also without the graphical user interface being in focus (col.14, lines 36-56).

As for dependent claim 37, Dwek the method of claim 35, further comprising: presenting a media file in accord with the selected media-playing services (col.4, lines 44-59).

As for independent claim 41, Dwek teaches *a computer-readable medium comprising computer-executable instructions that perform the following when executed by a computer: present a media-control user interface having multiple controls in a first process for controlling services associated with playing media; and enable a user that is actively engaged with a non-media-control user interface in a second process to interact with the media-control user interface through selection of one or more of the multiple controls without disengaging from the non-media-control user interface. Dwek does not specifically teach that multiple controls are displayed at once on the taskbar* (figure 5; col.14, lines 36-50 also note the analysis of claim 1 above).

As for dependent claim 45, Dwek the computer-readable medium of claim 41, wherein the interaction with the media-control user interface includes a single keystroke (col.5, lines 55-62).

As for dependent claim 46, Dwek the computer-readable medium of claim 41, further

comprising: provide media-playing services based on the interaction (col.5, lines 55-62).

As for independent claim 50, Dwek teaches a computer-readable medium comprising computer-executable instructions (note claim 41) that perform the following when executed by a computer: create a first user interface with graphically selectable media-control services and running in a first process; and enable selection of the media-control services while a second user interface running in a second process remains in perspective (col.14, lines 36-50; figure 5. Dwek further teach that multiple controls are displayed simultaneously on the taskbar (figure 5; also note the analysis of claim 1 above).

As for dependent claim 51, Dwek the computer-readable medium of claim 50, wherein the media-control services include initiating and ceasing play of a media file (figure 5; play and stop controls presented).

As for independent claim 55, Dwek teaches an apparatus comprising: means for presenting a user interface having multiple controls in a first process for controlling services associated with playing media; and means for enabling a user interacting with a second process to interact with the user interface through the multiple controls and without ceasing to interact with the second process (figure 5; col.14, lines 36-50). Dwek does not specifically teach that multiple controls are displayed at once on the taskbar (figure 5; note the analysis of claim 1 above).

As for dependent claim 56, Dwek the apparatus of claim 55, further comprising: means for playing a media file based on preferences received from the user during the interaction with the user interface, the interaction including selection of two or more of the multiple controls (col.10, lines 60-67).

As for claims 10, 11, 19, 22, 28, 38-40, 47-49, Dwek teaches a media player for playing music wherein the media player is inside of the system shell (note the above analysis); the use of the media player playing visual media; a multimedia player which is embedded in the system tray that plays music and videos (col.4, lines 7-16; figure 5)

As for independent claim 25, Dwek teaches a system comprising: a controller; a playback module; a visual space; and a user interface, wherein: the controller is capable of creating the user interface; the user interface is integrated within an operating-system shell's user interface and is capable of enabling a user to input preferences for play of a media file; and the playback module is capable of rendering the media file to enable the controller to present the media file in the visual space and with the visual space remaining visible over all other windows on a screen in which the user interface and operating-system shell's user interface is presented (pg 8) (Note the analysis of claims 8,11, 16,18 and 19; wherein it is appreciated that the above already analyzed claims are within the exact same similarity and it is well appreciated that the teachings of Dwek correspond to a program which in turn is related to a system, wherein this system

performs the above mentioned subject matter as noted from the above analysis already). Dwek further teaches use of the media player playing visual media and displaying player always on top of all other windows (col.4, lines 7-16; col.14, lines 36-50)

As for dependent claim 26, Dwek teaches the system of claim 25, further comprising a deskband, wherein the deskband is capable of aiding the controller in determining parameters for the user interface to conform by communicating with an operating system that governs the operating-system shell's user interface (note the analysis of claims 17-18).

As for dependent claim 27, Dwek teaches the system of claim 25, further comprising a deskband, wherein the deskband is capable of building a file containing parameters for the user interface to conform to an operating-system shell governing the operating-system shell's user interface (note the analysis of claims 17-18).

As for dependent claim 29, Dwek teaches the system of claim 25, wherein the user interface includes media-playing services that stop, play, pause, skip forward or backward through, and change to a next or previous track of the media file (figure 5).

As for dependent claim 30, Dwek teaches the system of claim 25, wherein the user

interface includes media-playing services that stop, play, and pause the media file (figure 5)

As for dependent claim 31, Dwek teaches the system of claim 25, wherein the user interface is capable of enabling the user to input preferences through dragging and dropping an icon representing a media file onto the visual space or the user interface (col.5, lines 40-46; col.9, lines 1-11).

As for dependent claim 32, Dwek teaches the system of claim 25, wherein the user interface and the playback module execute in different processes (col.).

As for dependent claim 33, Dwek teaches his system of claim 25, wherein the user interface and the playback module execute in one process (figure 1).

As for dependent claim 34, Dwek teaches the system of claim 25, wherein the user interface executes in a first process governing the operating system shell's user interface, the playback module executes in a second process, and the user interface includes a button to select a service that switches presentation of media from the visual space to a second visual space created by an application running in the second process (note the analysis of claims 33, 32 and 25 above).

(Note :) **It is noted that any citation to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In**

re Heck, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)).

Response to Arguments

Applicant's arguments with respect to claims 1-29, 31-41, 45-51, 55 and 56 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Inquires

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Augustine whose telephone number is 571-270-1056 and fax is 571-270-2056. The examiner can normally be reached on Monday - Friday: 9:30am- 5:00pm Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 571-272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven B Theriault/
Primary Examiner, Art Unit 2179

/Nicholas Augustine/
Examiner
Art Unit 2179
June 12, 2009